

**REMARKS/ARGUMENTS**

**Amendments**

The claims are modified in the amendment. More specifically, claim 36 have been canceled; and claims 1 and 22 have been amended. Therefore, claims 1-5, 21-24, and 37-39 are present for examination. No new matter is added by these amendments. Applicant respectfully requests reconsideration of this application as amended.

**Interviews After Final**

Three times in the last week, Examiner Kim granted interviews to discuss proposed claim amendments. As any interview after final is discretionary, these opportunities are truly appreciated.

**35 U.S.C. § 102 Rejection, Smith et al. in view of Barber et al.**

The Office Action has rejected claims 1-5 and 22-24 under 35 U.S.C. §102 as being unpatentable over the cited portions of non-patent literature document "*Tools and techniques for color image retrieval*" to Smith et al. (hereinafter "Smith") in view of the cited portions of U.S. Patent No. 5,579,471 to Barber et al. (hereinafter "Barber"). The amended claims are believed patentable over both Smith and/or Barber. Among other reasons, neither Smith nor Barber teach or suggest automatically adjusting the image factors used by the matching algorithm.

**CONCLUSION**

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance and an action to that end is respectfully requested.

Appl. No. 10/767,216  
Amdt. dated November 26, 2008  
Amendment under 37 CFR 1.116 Expedited Procedure  
Examining Group 2161

PATENT

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-571-4000.

Respectfully submitted,

/Tom Franklin/

Thomas D. Franklin  
Reg. No. 43,616

TOWNSEND and TOWNSEND and CREW LLP  
Two Embarcadero Center, Eighth Floor  
San Francisco, California 94111-3834  
Tel: 303-571-4000  
Fax: 415-576-0300  
TDF:sjs:cmb

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